



STATE BOARD OF EQUALIZATION
PROPERTY TAXES DEPARTMENT
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TO COUNTY ASSESSORS,
COUNTY COUNSELS, AND
OTHER INTERESTED PARTIES

No. 2000/054

PROPERTY TAX RULE 133
BUSINESS INVENTORY EXEMPTION

Following a scheduled public hearing on January 5, 2000, the State Board of Equalization amended Property Tax Rule 133 (under Title 18, California Code of Regulations). The amendments became effective July 26, 2000. Enclosed for your information is the final printed copy of the regulation.

The Property Taxes Department has received a number of questions regarding the retroactivity of the amendment to Property Tax Rule 133. All property tax rules are retroactive in the sense they implement, interpret, and clarify existing law. To the extent that the business inventory exemption was not properly applied in the past, refunds of taxes paid on exempt business inventory are appropriate, subject to applicable statutes of limitations. Property Tax Rules clarify existing statutes; they do not create exemptions. The purpose of the amendment to Rule 133 was to clarify the Board's interpretation of the business inventory exemption as it applies to oak barrels. As described in Rule 133, oak barrels have always been classified as business inventory, and thus have been exempt under Revenue and Taxation Code section 219.

Claims for refund of taxes must be made within four years of the date the taxes were paid. [R&T Code § 5097]. This is the date the taxes were *paid*, not the due date or the delinquency date. The effective date of the amendments to the regulation is not relevant to the timeliness of claims for refund.

If you have any questions regarding the content of this regulation, please contact Mr. Mark Nisson, (916) 324-0295. If you wish extra copies of this regulation, please write to State Board of Equalization, Publications Order Desk, 3920 West Capitol Avenue, West Sacramento, CA 95691. You may also call, 1-800-400-7115, to order copies of this regulation.

Sincerely,

/s/ Richard C. Johnson

Richard C. Johnson
Deputy Director
Property Taxes Department

RCJ:dc
Enclosure

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Chapter 1. State Board of Equalization — Property Tax
Subchapter 2. Assessment
Article 3. Exemptions and Immunities

Rule 133. BUSINESS INVENTORY EXEMPTION.

Authority Cited: Section 15606, Government Code.

Reference: Sections 129, 219, Revenue and Taxation Code.

(a) SCOPE OF EXEMPTION.

(1) "Business inventories" that are eligible for exemption from taxation under section 129 of the Revenue and Taxation Code include all tangible personal property, whether raw materials, work in process or finished goods, which will become a part of or are themselves items of personalty held for sale or lease in the ordinary course of business.

(A) The phrase "ordinary course of business" does not constitute a limitation on the type of property which may be held for sale or lease, but it does require that the property be intended for sale or lease in accordance with the regular and usual practice and method of the business of the vendor or lessor.

(B) The phrase "goods intended for sale or lease" means property acquired, manufactured, produced, processed, raised or grown which is already the subject of a contract of sale or which is held and openly offered for sale or lease or will be so held and offered for sale or lease at the time it becomes a marketable product. Property which is ready for sale or lease must be displayed, advertised or otherwise brought to the attention of the potential purchasers or lessees by means normally employed by vendors or lessors of the product.

(2) "Business inventories" includes:

(A) Containers or container material such as kegs, bottles, cases, twine and wrapping paper, whether returnable or not, if title thereto will pass to the purchaser or lessee of the product to be sold or leased therein.

(B) New and used oak barrels used in the manufacturing process that physically incorporate the flavor- and aroma-enhancing chemical compounds of the oak into wine or brandy to be sold, when used for this purpose. However, an oak barrel is no longer business inventory once it loses the ability to impart the chemical compounds that enhance the flavor and aroma of the wine or brandy. An "oak barrel" used in the manufacturing process is defined as having a capacity of 212 gallons or less. Oak barrels not used in the manufacturing process but held for sale in the ordinary course of business are also considered business inventory.

(C) Materials such as lumber, cement, nails, steel beams, columns, girders, etc., held by a licensed contractor for incorporation into real property, providing the real property will not be retained for the licensed contractor's use.

(D) Crops and animals held primarily for sale or lease and animals used in the production of food or fiber and feed for animals in either category.

(b) EXCLUSIONS. Property eligible for the "business inventories" exemption does not include:

(1) Property of any description in the hands of a vendee, lessee or other recipient on the lien date which has been purchased, leased, rented, or borrowed primarily for use by the vendee, lessee or other recipient of the property rather than for sale or lease or for physical incorporation into a product which is to be sold or leased. Examples of property excluded from business inventories are office supplies, furniture, machines and equipment and manufacturing machinery, equipment and supplies such as dies, patterns, jigs, tooling or chemicals used to produce a chemical or physical reaction, and contractors' supplies, tools, concrete forms, and other items that will not be incorporated into and become a part of the property. Also ineligible are materials that a contractor is holding to incorporate into real property that will be retained for his own use.

RULE 133. *(Continued)*

(2) Property being used by its owner for any purpose not directly associated with the prospective sale or lease of that property.

(3) Property actually leased or rented on the lien date.

(4) Property which has been used by the holder prior to the lien date, even though held for lease on the lien date.

(5) Property intended to be used by the lessor after being leased or during intervals between leases even though held for lease on the lien date.

(6) Property in the hands of a lessor who, with intent to enjoy the benefits of the inventory exemption, had leased the property for a period that expired shortly before the lien date but who renewed, extended or renegotiated the lease shortly thereafter.

(c) SERVICE ENTERPRISES. Property held by a person in connection with a profession which is primarily a service activity such as medicine, law, architecture or accountancy is not "business inventories" held for sale or lease even though such property may be transferred to a patient or client incidental to the rendition of the professional service. Property held by enterprises rendering services of a nonprofessional type as dry cleaners, beauty shop operators and swimming pool service companies is to be regarded as "business inventories" held for sale if such property is delivered to the customer as an item regularly included in the service.

(d) REPAIRERS AND RECONDITIONERS. Persons engaged in repairing or reconditioning tangible personal property with the intent of transferring parts and materials shall be regarded as holding said parts and materials as "business inventories."

(e) AGRICULTURAL ENTERPRISES. Animals, crops and feed held primarily for sale or lease in the ordinary course of business are included in the term "business inventories," as are animals used in the production of food or fiber and feed for such animals.

(1) "Animals used in the production of food and fiber" includes all animals customarily employed in the raising of crops or for the feeding, breeding and management of livestock, or for dairying, or any other confined animals whose products are normally used as food for human consumption or for the production of fiber useful to man. Excluded are animals held by an owner or lessee principally for sport, recreation or pleasure such as show animals, horses kept for racing or horses and other animals kept as pets.

(2) The term "crops" means all products grown, harvested, and held primarily for sale, including seeds held for sale or seeds to be used in the production of a crop which is to be held primarily for sale. It does not include growing crops exempted pursuant to Article XIII, Section 3 (h), of the California Constitution or fruit trees, nut trees, and grapevines exempted by Section 223 of the Revenue and Taxation Code.

(3) The term "food" means property normally considered as food for human consumption.

(4) Feed for animals held primarily for sale or lease or for animals used in the production of food or fiber constitutes "business inventories" subject to exemption. It includes every type of natural-grown or commercial product fed to animals except medicinal commodities intended to prevent or cure disease unless the medicinal commodities are purchased as a component part of feed for such animals.

History: Adopted November 20, 1968, effective December 21, 1968.

Amended January 7, 1970, effective February 8, 1970.

Amended January 6, 1971, effective February 18, 1971.

Amended February 5, 1975, effective March 20, 1975.

Amended August 20, 1980, effective November 14, 1980.

Amended October 10, 1984, effective February 21, 1985.

Amended January 5, 2000, effective July 26, 2000.